

Court of Appeals, State of Michigan

ORDER

People of MI v Dorian Charnell Clements

Docket No. 352697

LC No. 19-000192-FH

Jane E. Markey
Presiding Judge

Douglas B. Shapiro

James Robert Redford
Judges

This Court DENIED defendant's delayed application for leave to appeal by order dated March 24, 2020; Shapiro, J. dissented. Defendant had argued that MCL 769.1k(1)(b)(iii), which authorizes a court to impose costs, is unconstitutional because it undermines a defendant's right to appear before a neutral judge and because it violates the separation of powers doctrine. Defendant filed an application for leave to appeal in our Supreme Court.

The Supreme Court, in Docket No. 161379 by order dated October 21, 2020, REMANDED the case to this Court, directing us to hold the case IN ABEYANCE pending a decision by this Court in *People v Lewis* (Court of Appeals Docket No. 350287). The Supreme Court also ordered this Court to reconsider the case in light of *Lewis*. By order dated November 23, 2020, this Court, as directed, held the case IN ABEYANCE pending the decision in *Lewis*. On May 13, 2021, an opinion was issued in *Lewis* rejecting the defendant's constitutional challenge to the imposition of costs. In light of *Lewis*, we again DENY defendant's delayed application for leave to appeal.


Presiding Judge

Shapiro, J., because I believe that *People v Lewis* (Docket No. 350287) was wrongly decided, I would grant leave to consider whether we should convene a conflict panel to consider the constitutionality of MCL 769.1k(1)(b)(iii). My reasons for concluding that the statute is unconstitutional were set forth in my dissenting opinion in *People v Johnson*, ___ Mich App ___; ___ NW2d ___ (2021) (Docket No. 351308).



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

June 11, 2021

Date


Chief Clerk